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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,278	05/22/1998	YOJI FUJIWARA	041-2013	3784

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EXAMINER

ZIMMERMAN, BRIAN A

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 05/20/2004

28

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/083,278

Applicant(s)

FUJIWARA ET AL.

Examiner

Brian A Zimmerman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6, 8-17, 19-21 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6, 8-17, 19-21 and 23-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

EXAMINER'S RESPONSE

Status of Application

In response to the applicant's amendment received on 3/15/04. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 3-6,8-17,19-21,23-27 are unpatentable for the reasons set forth in this office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

1. Claims 11,12,14,15,20,23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the WO publication to Motorola (WO 96/06417, hereafter referred to as the Motorola Publication), Wong (5394140) in view of Katayama (6545590).

The Motorola publication shows a pager, which receives codes. A first portion of a received code is compared to a stored address to detect if the message is directed to the particular paging receiver, page 4 lines 20+. A second portion of the codes is used to convey display information to the user (page 4 lines 34+), and a third portion of the codes is used to activate a sound generator to audibly generate recalled tones to be heard by the user for presenting an audible composition to the user (page 4 lines 35+). It is noted that an audio composition is a song.

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It remains the examiner's position that the Motorola Publication does generate a series of tones where at least one tone has a frequency that is at least a portion of the chromatic scale. The chromatic scale is a series of notes or tones that can be used to generate or write an audible composition. It remains the examiner's position that the Motorola Publication would in fact generate at least one tone that would exist on the Chromatic Scale.

In the alternative, it is well known that the chromatic scale is a group of notes that can be used to create music or an audible composition much like the various forms of the English Language. Similarly, it is clear the a musical or audible composition for alerting would have been obvious in view of the Motorola Publication regardless of the exact notes or the exact manner in which to express or "write" those notes. Therefore, it would have been obvious to use musical notes from different scales in the audible generated composition since such would have been common techniques to use different notes to generate a composition.

In an analogous art, Wong shows a pager, which generates audible messages in response to received message codes that are interpreted in view of stored corresponding codes. Wong shows displaying the call back number on the display, col. 3 lines 54-55. Wong also shows associating the call back number with an audio tone in a table format. See abstract and figure 2. This permits the user to have some creative control over how the audible composition is presented. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used an input means on the pager in order to

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permit the user to creatively control the audible output of an composition discussed in the Motorola document.

In an analogous art, Katayama shows a musical alert pager that transmits musical note data that is assembled to produce a musical tune. This allows the 'creation' of new tunes by assembling different notes, thus providing increased flexibility in creating a unique musical tune. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used separate note data in the above modified system in order to create melodies in the receiver as suggested by Katayama in order to increase flexibility in the system.

2. Claims 3-6,13,16,17,19-21,26,27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Motorola Publication, Wong and Katayama as applied to claims 11,14, above, and further in view of Fisch (4873520).

In an analogous art, Fisch shows voice message pager. The pager of Fisch uses voice as an audible composition, in order to convey addition information to the user upon retrieval or playing of the message. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used voice as the audible composition in the above discusses system in order to convey additional information regarding the message.

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3. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Motorola Publication, Wong, Katayama and Fisch as applied to claim 4 above, and further in view of Kawashima (5332994).

In an analogous art, Kawashima shows audible message pager. The pager of Kawashima uses the audible composition to convey addition information to the user. Kawashima uses a timer 12 to limit the time interval that the selected tone is generated; this provides protection to the power supply in that the audible generator does not drain the battery. It is also noted that stop commands are verily common in POCSAG systems. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a timer to limit the audible composition in the above discusses system in order to prevent excessive battery drain.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A Zimmerman whose telephone number is 703-305-4796. The examiner can normally be reached on Off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Horabik can be reached on 703-305-4704. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian A Zimmerman
Primary Examiner
Art Unit 2635

BAZ